

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JASON SETH PERRY,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-02320-TWP-TAB
)	
KEITH BUTTS, et al.)	
)	
Defendants.)	

Entry Severing Misjoined Claims and Directing Opening of a New Civil Action

In *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007), the Court of Appeals explained that “[u]nrelated claims against different defendants belong in different suits.” Rule 18 of the *Federal Rules of Civil Procedure* allows joinder of multiple parties only when the allegations against them involve the same conduct or transaction and common questions of fact and law as to all defendants. Rule 20(a) allows defendants to be joined in one action if a right to relief is asserted against them jointly with respect to the same transaction or occurrence, and a question of law or fact common to all defendants will arise in the action. The complaint in this case violates the misjoinder of claims limitations of Rules 18 and 20(a). The violation here consists of the diversity of claims against the multitude of defendants. *DirecTV, Inc. v. Leto*, 467 F.3d 842, 844 (3d Cir. 2006)(“Misjoinder. . . occurs when there is no common question of law or fact or when . . . the events that give rise to the plaintiff’s claims against defendants do not stem from the same transaction.”).

In such a situation, “[t]he court may . . . add or drop a party. The court may also sever any claim against a party.” FED. R. CIV. P. 21. Generally, if a district court finds that a plaintiff has misjoined parties, the court should sever those parties or claims, allowing those grievances to

continue in spin-off actions, rather than dismiss them. *Elmore v. Henderson*, 227 F.3d 1009, 1012 (7th Cir. 2000). This is the remedy that will be applied to the complaint. The claims against Nurse Gregory, Kelly Durm, Dr. Ippel, Jennifer Smith, Keith Butts, Ms. Auler, Ms. Strobel, Officer Gaddis, Keith Butts, Nurse Runyon, Officer Martin, Sergeant Heady, Thelma Nornes, and Captain Thompson are **severed from the original complaint**.

In addition, a new civil action from the Indianapolis Division shall be opened, consistent with the following:

- a. Jason Perry shall be the plaintiff in the newly opened action.
- b. The Nature of Suit the newly opened action shall be 555.
- c. The Cause of Action of the newly opened action shall be 42:1983pr.
- d. The complaint in this action shall be filed and re-docketed as the complaint in the newly opened action. Mr. Perry's request to proceed in forma pauperis shall likewise be filed and re-docketed in the newly opened action.
- e. A copy of this Entry shall be docketed in the newly opened action.
- f. This action and the newly-opened action shall be shown with each other as linked actions.
- g. The defendants in the newly opened action shall be Nurse Gregory, Kelly Durm, Dr. Ippel, Jennifer Smith, Keith Butts, Ms. Auler, Ms. Strobel, Officer Gaddis, Keith Butts, Nurse Runyon, Officer Martin, Sergeant Heady, Thelma Nornes, and Captain Thompson.
- h. The assignment of judicial officers shall be by random draw.

Nurse Gregory, Kelly Durm, Dr. Ippel, Jennifer Smith, Keith Butts, Ms. Auler, Ms. Strobel, Officer Gaddis, Keith Butts, Nurse Runyon, Officer Martin, Sergeant Heady, Thelma Nornes, and Captain Thompson are **terminated** in this action.

This action shall proceed as to the claims against Kim Hobson, Nurse Taggart, Richard Brown, Michael Smith, and Nikki Tafoya. Those claims will be screened pursuant to 28 U.S.C. § 1915A(b) in a separate order.

IT IS SO ORDERED.

Date: 11/1/2018

A handwritten signature in black ink, reading "Tanya Walton Pratt", is positioned above a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

JASON SETH PERRY
138925
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL FACILITY
Inmate Mail/Parcels
1000 Van Nuys Road
NEW CASTLE, IN 47362